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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,113	01/07/2002	Ulrich Braun	VOSS1170	5907

7590 10/29/2004

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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,113

Applicant(s)

BRAUN, ULRICH

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-10 and 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05/03/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's election with traverse of Group I, Species I, in the reply filed on September 10, 2004 is acknowledged. The traversal is on the ground(s) that search and examination of the claims pending October 25, 2002 was not an undue burden. This is not found persuasive because applicant has doubled the number of claims since the Office action of October 25, 2002. Furthermore, "burden" is not limited to merely a search as portrayed by applicant.

The requirement is still deemed proper and is therefore made FINAL. Accordingly, claims 7-10 and 17-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b).

2. The drawings filed March 15, 2004 are disapproved as not complying with 37 CFR 1.121(d). The application will continue to be examined based upon the drawings filed January 7, 2002. It is noted that while the reference character and figure legend changes submitted 3/15/04 would be both acceptable and necessary, the cross-hatching changes would not be acceptable since items such as the "outlet(s)" and "siphon(s)" are passages rather than solid surfaces.

3. The drawings are objected to because cross-hatching is

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apparently missing from Figs. 1 and 2, the legends for Figs. 2A, 2B, 2C, 2D and 3B are missing, reference numerals "2", "3" and "4" denote different elements between Figs. 2 and 3, reference numeral "6" denotes different elements between Figs. 1 and 3, reference numeral "202" (par. 0008 ln. 26) is missing, reference numeral "203" (par. 0010 ln. 5) is missing, reference numerals "101" and "106" (par. 0024 lns. 4 and 5) is missing, reference character "AA'-BB'" (par. 0026 ln. 1) is missing, and reference numerals "204" and "210" (par. 0027 ln. 1) is missing.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "device for flushing" set forth in claims 1 and 11, and the "partition wall" set forth in claims 1, 3 and 13, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Applicant argues at page 14 of the response filed March 15, 2004 the partition wall is not included with the claimed device, and therefore does not require illustration. The examiner can not agree. The claimed device appears to rely upon the partition wall to distinguish the prior art (see par. 0002). The examiner believes features set forth in a claim should be made clear

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to any reader of a patent document, to allow such claims to serve a notice function. Applicant has not done so.

4. The disclosure is objected to because of the following informalities: Paragraph 0008, line 11 and paragraph 0010, line 14, reference character "D" denotes different elements; paragraph 0032, line 1, reference numeral "7" denotes different elements, and lines 1 and 2, reference numerals "6" and "8" denote the same element; paragraph 0033, line 1 and paragraph 0043, line 3, reference numeral "10" denotes different elements; paragraph 0033, line 1 and paragraph 0043, line 5, reference numeral "10" denotes different elements; paragraph 0035, line 3 and paragraph 0043, line 3, reference numeral "17" denotes different elements; paragraph 0035, line 3 and paragraph 0043, line 5, reference numeral "17" denotes different elements; paragraph 0038, line 1, reference numeral "20" denotes different elements; and paragraph 0038, line 2 and paragraph 0040, line 3, reference numeral "18" denotes different elements.

Appropriate correction is required.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter.

See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of

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the following is required: Proper antecedent basis for the "device for flushing" set forth in claims 1 and 11, the "partition wall" set forth in claims 1, 3 and 13, and the "housed hydraulically" language set forth in claim 11, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

Applicant argues at page 14 of the response the partition wall is discussed at paragraph 0002. However, the "partition wall" discussed at 0002 is one associated with "hydraulically unconnected" toilet bowls. This would appear to contradict applicant's claimed invention (note claims 11 and 13, for example).

6. The amendment filed March 15, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Paragraph 0021, lines 1-4, new description of the sensor 3.

Applicant is required to cancel the new matter in the reply to this Office Action.

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7. Claims 1-6 and 11-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The invention referred to in the claims is insufficiently disclosed to enable one skilled in the art to understand the structure of, and cooperation between, the elements which comprise same. For example, how cover C functions to control the urine outlet 2 is neither taught by the instant disclosure nor evident to the examiner. The cover appears to seal blocking-hole 12 in both positions thereof via seal B and plug 11 preventing urine from flowing through the outlet.

Applicant has acquiesced this finding as discussed at page 15 of the response.

8. Claims 1-6 and 11-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

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Claims 1 and 11 recite a "urine separating toilet... for separately collecting and draining faeces and urine".

Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner. No practical ability to separate urine and feces has been disclosed. In fact, Fig. 1 illustrates the urine siphon 6 and faecal siphon 1 as having inlets communicating with a single toilet bowl and outlets communicating with a single drain.

Applicant argues at pages 16-17 of the response that when a user sits on the claimed toilet "the urine rinses water-free (undiluted) through the urine outlet." However, this does not appear possible as the outlet would be closed by plug 11 as discussed in the last paragraph on page 15 of the response.

9. Claims 1-6 and 11-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1 and 11 recite "a device for flushing the entire toilet bowl". Implementation of this subject matter

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is neither taught by the instant disclosure nor evident to the examiner. Claim 11 recites similar subject matter.

10. Claims 1-6 and 13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites "wherein no partition wall is located between the urine outlet and the faecal outlet". This subject matter is not defined in the originally filed disclosure and therefore lacks an adequate written description. Furthermore, there appears to be a "partition wall" illustrated in Fig. 2 separating elements 2 and 3. Claim 13 recites similar subject matter. Claim 13 recites similar subject matter.

11. Claims 2, 36, 11, 12 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is unclear as to the limitation imparted by the term "feature". The disclosed feature includes

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elements also disclosed as part of the "device for opening". Claim 12 recites similar subject matter.

Claim 3 is redundant to claim 1.

Claim 6 is unclear as to whether the "toilet" is intended to be part of the claimed combination since structure of the "device" is defined as being connected thereto (ln. 2), but no positive structural antecedent basis therefor has been defined. Claim 16 recites similar subject matter.

Claim 11 is unclear as to whether the "toilet" is intended to be part of the claimed combination since structure of the "device" is defined as being connected thereto (lns. 3-4), but no positive structural antecedent basis therefor has been defined.

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(f) he did not himself invent the subject matter sought to be patented.

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13. Claims 1, 3/1, 4/1, 5/1, 11, 13/11 and 14/11, as best understood, are rejected under 35 U.S.C. 102(a)/(b)/(f) as being anticipated by Excerpts from Roevac.

The Excerpts from Roevac (Roevac) reference (submitted by applicant with no effective date indication) discloses a device comprising: a device for opening (pg. 2 "In Use"); a device for closing (pg. 2 "Flushing"); a device for flushing (pg. 2 "Flushing"); and "no partition wall" (pg. 1 "barricade"), as claimed. Re claim 5, the Roevac device is capable of being used with a toilet bowl in the functionally recited manner.

14. Claims 1-5 and 11-15, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Geeham '850.

The Geeham '850 (Geeham) reference discloses a device comprising: a device for opening 18; a device for closing 52b; a device for flushing 22; "no partition wall" (in the same sense as with applicant's disclosed device); a feature 65; and a toilet 10 including a urine outlet 58, a fecal outlet 30, a bowl 12 having protrusions (Fig. 1, at 34), and a seat (top of 12), as claimed. Re claim 1, the Geeham opening and closing devices are capable of being used in the functionally recited manner.

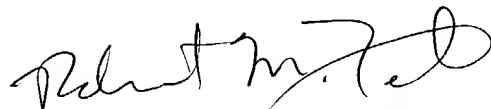
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15. Claims 1-5 and 11-15, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wilhelm.

The Wilhelm reference discloses a device comprising: a device for opening 43; a device for closing 41; a device for flushing 5; "no partition wall" (in the same sense as with applicant's disclosed device); a feature (col. 2 lns. 62-65); and a toilet 1 including a urine outlet 22, a fecal outlet (inlet to 17), a bowl 16 having protrusions (Fig. 1, at 22), and a seat (top of 16), as claimed. Re claim 1, the Wilhelm opening and closing devices are capable of being used in the functionally recited manner.

16. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

17. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.



Robert M. Fetsuga
Primary Examiner
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